

INTERNAL REVENUE SERVICE

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The Honorable John M. McHugh
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. McHugh:

Commissioner Rossotti asked me to respond to your inquiry dated April 5, 2000, on behalf of your constituent, [REDACTED]

[REDACTED] in the State of New York (the Agency).

The Agency reimburses volunteers for the expenses incurred in driving their privately owned vehicles on behalf of the Agency. The volunteers receive no compensation for their services, but receive reimbursement for vehicle mileage. [REDACTED] states that most of the volunteers are retired and living on fixed incomes and that some may be forced to drop out of the Agency's volunteer driver pool because the price of gasoline is escalating while the mileage reimbursement rate paid by the Agency remains fixed. [REDACTED] letter indicates that the Agency is reimbursing volunteers at a 32.5 cent per mile rate. He asks that the Internal Revenue Service (IRS) consider amending the mileage reimbursement rate for volunteers because of increasing gasoline prices.

As discussed below, The IRS cannot change the optional charitable standard mileage rate because it is set by statute. Information that I hope will help explain the federal income tax rules applicable to charitable volunteer drivers is also provided.

Reimbursement Through Use of the Optional Charitable Mileage Rate. Under Rev. Proc. 99-38, 1999-43 I.R.B. 525, taxpayers may calculate the cost of using an automobile for business, moving, medical, or charitable purposes by using the optional mileage rate without keeping records of actual expenses. But generally, taxpayers must keep records of miles traveled, as well as the time, place (or use), and purpose of the transportation in order to substantiate the correct reimbursement amount. The optional standard mileage rate system is a convenient way to determine the amount of reimbursements.

The optional standard mileage rate for volunteers providing service to a government or charitable organization is set by § 170(i) of the Internal Revenue Code at 14 cents per mile. The IRS has no administrative authority to raise the rate established by the Congress; it can only be raised by a change to the statute. The rate was raised from 11

cents per mile to 14 cents per mile by § 973(a) of the Taxpayer Relief Act of 1997, effective for taxable years beginning after December 31, 1997.

Reimbursement of Actual Costs. Instead of using the optional charitable standard mileage rate, the Agency may reimburse actual substantiated operating expenses, including gasoline and oil expenses, incurred by volunteers on behalf of the Agency. This reimbursement method allows the Agency to account for increased fuel prices. It should be noted, however, that expenses for repairs, depreciation, and insurance are generally not costs incurred by the volunteer on behalf of a charity and should not be subject to reimbursement.

It appears from [REDACTED] letter that use of the 14 cents per mile optional standard mileage rate is appropriate rather than the 32.5 cents per mile rate to which he refers. In Rev. Rul. 80-99, 1980-1 C.B. 10, the IRS ruled that reimbursements for expenses incurred by a taxpayer on behalf of another in a nonemployment context are not includible in the taxpayer's gross income, provided the reimbursement does not exceed the actual expenses. Thus, the Agency's reimbursement to a volunteer of out-of-pocket transportation costs incurred on its behalf is not includible in the volunteer's gross income. However, if the Agency's reimbursement exceeds the volunteer's actual substantiated operating expenses, the excess is includible in the volunteer's gross income. In such circumstances, the Agency may also have an attendant information reporting obligation.

I hope this information is helpful. Please contact me at (202) 622-4810 or George H. Bradley, Identification Number 50-00741, at (202) 622-4920 if we may be of further assistance.

Sincerely,

Lewis J. Fernandez
Deputy Assistant chief Counsel
(Income Tax and Accounting)